The Impact of the Prison Industrial Complex on African American Women

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The imprisonment of millions of human beings is a fact of life today in the United States. According to Marc Mauer, mass imprisonment, beginning in the early 1970s, is the second Great Experiment in prison history—the first being the movement of punishment of offenders from the streets into penitentiaries in the late eighteenth to early nineteenth centuries.' David Garland suggests that what is unique about today's mass imprisonment is its sheer numbers (over 2 million people are incarcerated in federal and state prisons and local jails) and its "systemic imprisonment of whole groups of the population."[2] Thus, he argues, 30 percent of all young Black men born today can anticipate spending some time in prison. Not only does this structure the African American experience, but it also has a devastating social impact on whole neighborhoods and communities. How does all this impact women in African American communities? I answer this question by looking at (1) women in prison, (2) women left behind in communities when men and women in their households and communities end up in prison, and (3) women as they leave prison and re-enter home communities.

The prison industrial complex is a Cornerstone of the conservative neo-liberal policies emerging in the age of globalization since the early 1970s, which has increased the disenfranchisement of marginalized Black and Latino/a communities and is responsible, in large part, for the situation facing Black women involved with the prison system today.[3] Elsewhere 'I describe the forces that are responsible for the rise in imprisonment rates since the early 1970s: the racialized war on drugs, the harsh laws and mandatory sentences in a conservative era, economic restructuring, globalization, and the prison industrial complex! According to Steven Donziger, the prison industrial complex is a set of bureaucratic, economic, political interests that encourage spending on prisons—regard-

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less of need.' And Sudbury says the prison industrial complex refers to a "symbiotic and profitable relationship between politicians [state and national], corporations [executives and shareholders], the media, and state correctional institutions [including correctional officers' unions] that generates the racialized use of incarceration as a response to social problems rooted in the globalization of capital."'

Impact of the Second Great Experiment in Prison History on Women Today

To understand the impacts of the second Great Experiment in prison history on Black women today, we need to look at what happens to Black women in prison, those who are left behind in, and carry out the work of, the community when members of their community go to prison, and Black women as they leave prison to return to their typically beleaguered communities. The conditions that women experience in prison, for the most part, are horrendous: poor health services; inadequate or nonexistent drug abuse programs; inadequate educational programs; limited occupational training and jobs that do not make women ready for decent, viable employment back in their communities; lack of attention to physically, sexually, and emotionally abused women; and vulnerability to the physical absence and legal loss of their children. Below I discuss a few examples of the impact that incarceration has on Black women while they are in prison.

Impact #1: Increases in the Numbers of Poor Black Women in Prison

At the beginning of the second Great Experiment in prison history in 1970, there were only 5,600 women in prison.' Today, that number has risen to 94,336—a seventeen-fold increase in women's imprisonment by 2001. Add to that another 72,621 women in jail in 2001 and 167,000 women are incarcerated in the U.S. today.[8] In addition, over 800,000 more women are on probation and parole.' In short, the numbers are quite dramatic: almost 1 million women are under the control of the criminal justice system today.

By 1994, almost 5 percent of all young Black women 20-29 years old were under the control of the criminal justice system—in jail, prison, on probation, or parole

But these numbers are heavily biased against Black women: Although almost half of the female prison population is Black, only 13 percent of the U.S. female population is Black.[10] And when Latinas/Latinos are included in the figures, Blacks and Latinas/os make up 62 percent of the incarcerated population, though they comprise only 25 percent of the national population."

Not only are the numbers of poor Black women increasing in prison, but they are there primarily for non-violent offenses (larceny-the!?, forgery, fraud, prostitution, and drugs) which could better be handled outside of prison.[12] By 1994, almost 5 percent of all young Black women 20–29 years old were under the control of the criminal justice system—in jail, prison, on probation, or parole. This is much more than half the rate of young white men (6.7 percent)." Women are increasingly incarcerated for drugs. In the case of Black and Latina women, this is

quite dramatic—and especially so in the state of New York where 91 percent of all women prisoners sentenced for drugs were Black and Latina (although they were only 32 percent of the state's female population).[14] In 1995, almost *two* out of three Black women (65 percent) sentenced to prison were convicted of drug charges, as were four out of five (82 percent) Latina women. And by 1997, overall 59 percent of women in New York state prisons were serving sentences for drug convictions, which was true of 77 percent of Latinas and 34 percent of white women.[15] In short, the racialized war on drugs is described in the title of Stephanie Bush-Baskette's (1998) article, "The War on Drugs as a War against Black [and Latina] Women."[16]

Women are often transferred from one facility to another, thus missing important deadlines and court dates that can result in termination of their parental rights

Despite images of violent female offenders hitting front pages," the truth is that much of the increase in incarceration of supposedly violent women is due to the expansion or "net widening" of traditionally non-violent behaviors that are now artificially included in the category of "violent" offenders. According to Darrell Steffensmeier and Jennifer Schwartz this is misleading because these changes in violent crimes "largely reflect changing attitudes and enforcement practices," not increases in violent behavior by women.[18] In fact, they argue, women incarcerated for violent offenses in state prisons have *decreased* over time, with less than 30 percent of all female inmates imprisoned in the U.S. for a violent offense, compared to 41 percent over a decade ago. Moreover, the percent of women imprisoned has ***not*** *increased* since the mid-1980s for murder, assault, weapons, or robbery. In fact, for murder, the percent of women in prison has decreased from 13 in 1986 to 9 in 1999.[19]

Of course one of the reasons this is such a tragedy is that all the consequences that flow from incarceration are magnified for women in the Black community when on the outside: stigma, possible loss of parental rights, greater difficulty in getting an education, a job, and housing.

Impact #2: Exposes Women to Inadequate Health Care and Infectious Diseases

Several of the issues becoming more apparent as larger numbers of women, particularly Black and Latina women, are incarcerated are described below. First, with such a disproportion of Black women in prison, we learn not only of their larger numbers with HIV/AIDS, but also their placement in close proximity with other women with high rates of infectious and chronic diseases, thereby endangering their physical and related emotional health, to say nothing of the inadequate health care services to handle these and more basic health problems of imprisoned women.'" Moreover, the high rate of physical and sexual abuse and trauma experienced by women prior to entering prison is exacerbated by the fact that inadequate services exist for women to deal with these issues at the same time that they are vulnerable to abuse and assault by prison staff.

Impact #3: Exposes Women to Rape, Sexual Harassment and Coercion

While sexual abuse at the hands of male guards is nothing new, the sexual victimization of female prisoners has been recognized as a problem of growing seriousness since the

early 1990s.[21] One of the greatest tragedies here is that many women prisoners were victimized by fathers, husbands, neighbors, and partners only to come to prison to be victimized again by guards and other staff — sexually, physically (e.g., through "legal" and "illegal" strip searches as well as "pat downs"), and emotionally. As the largest single population in prison, African American women experience the most of this type of violence. Reports by Amnesty International, Human Rights Watch, an independent fact-finder for the United Nations (Radhika Coomaraswamy), and numerous federal, state, and local reports on sexual misconduct of prison staff detail instances of what some have called outright torture, from rape and other sexual abuse, to dangerous shackling of women including while they are giving birth, and demeaning strip searches. According to Amnesty International's report, over 1,000 such cases were reported in a recent three-year period with far more not reported for fear of official retaliation.[22]

Impact #4: Provides Wonren Inadequate Drug Treatment

In discussing women's pathways to crime, drugs and violence have figured prominently—drugs often being used in an attempt to heal the pain of violence experienced by these women.[23] While one in three women are incarcerated for violating drug laws (and two-thirds of women in federal prisons are incarcerated for drugs), Black women are incarcerated at eight times the rate of white women (and Latinas 3.5 times white women's rate).[24] The devastation caused by drugs, in combination with poverty and racism, in the lives of Black and Latina women is attested to eloquently in Beth Richie's recent article on the problems women face when they re-enter home communities after prison,

Most felons cannot vote; in thirteen states some or all ex-felons cannot vote—and even when they can, both the individuals and the communities are not well informed about these possibilities

The need for substance abuse treatment is paramount for women in prison, and yet, only 10 percent of drug abusing women are offered any real drug treatment in prison or jail, leaving them vulnerable to returning to drugs both inside and outside prison.[25] Several years ago the Rand Corporation found that drug programs were seven times more effective in helping people to stop abusing drugs than incarceration.[26] Given that so many Black and Latina women end up in prison for drugs or drug-related crimes, it makes us realize even more the negative impact of imprisonment on Black women in the U.S.

As with health care, drug abuse treatment, analysis, and prevention of violence against women, so too with education, occupational training, and other needs of women in prison: the programs that do exist are inadequate at best; and those that have helped are being heavily cut back.[27] After decades of struggling for gender-specific programming and parity in resources and opportunities for women in prison, successful programs like the one in St. Paul, Minnesota, which "after 21 years of carving a national reputation as a trail-blazer and innovator for women and juvenile female offender issues at the state level came to an end" in early 2003 because of budget cuts.[28]

Fabulous. *Photo © Zaahir Muhammed*

Impact #5: Makes it Difficult to Maintain Contact With and Custody of Children

The vast majority of women in prison are mothers with children under the age of 18 (70 percent). Almost two-thirds (64 percent) of these mothers lived with their children prior to incarceration and one-third was the sole parent living with their children. With just over one-quarter (28 percent) of children of incarcerated mothers being cared for by their fathers, most children of imprisoned mothers are cared for by other people—primarily grandmothers, but also other relatives too. Still, 10 percent of the children end up in foster care or in an agency.[29]

Reunification laws became even more punitive in 1997 under the Adoption and Safe Families Act (ASFA), which states that if a mother does not have contact with a child for six months, she can be charged with "abandonment" and lose rights to her child. Likewise, if a child has been in foster care for fifteen of the prior twenty-two months, the state may begin proceedings to tenninate parental rights.[30] However, women are often transferred from one facility to another, thus missing important deadlines and court dates that can result in termination of their parental rights. Moreover, it is often hard for caregivers to bring children to the prison because of distance and cost, while some purposefully fail to bring the children for fear that it would harm them. The threat of losing their children is quite real. Given that about half of the women (and of the men) in prison are Black, it is Black children who suffer the most. In fact, a full 7 percent of Black children currently have a parent in prison. Black children are nine times more likely, while Latino/a children (2.6 percent with parents in prison) are 2.6 times more likely, than white children (0.8 percent with parents in prison) to have a parent in prison.[31]

Impact #6: Diminishes Women's Opportunities for Numerous Services, Programs, and Rights

Clearly, there are many more misfortunes and dangers that face women in prison whether in terms of the lack of adequate educational and occupational training, the loss of even the small number of hard won programs, or the loss of their rights to vote while incarcerated. All these issues impact more harshly for racialized women who come from disadvantaged Black and Latino/a communities.[32]

Impacts on Black Women Back in the Community

Impact #1: Removal of Resources for Women Who Remain in the Community

The impact of the prison industrial complex on women who remain in the community while men and women in their families are incarcerated is tremendous. Not only does it take men and women out of the community who are greatly needed for their contributions to income, child care, elder care, and emotional support but it also diminishes the job opportunities for women who remain in the community.[33] Poor Black, Latino/a, and other urban minority communities lose population, income, political power, and government funds to poor or struggling rural white communities where new prisons have been built in the last 30–35 years. This happens because economic restructuring and globalization lead to the loss of industrial jobs for poor minority inner city folks as well as the loss of agricultural and other rural jobs (mining, logging, factories) for poor white rural folks.[34] The development of prisons in these rural communities leads to the removal of poor Black and Latino/a people in the inner city to become prisoners guarded by poor white people from the hinterlands. Not only does-this provide jobs for the latter, using black and brown bodies of the former, but it reapportions federal funding from inner cities to rural communities — thereby weakening both economic and political strength of the inner city. How does all this affect Black women in particular?

The financial and material losses to the women back in the community are significant. According to Braman, even though family members sent to prison typically earn poverty wages, the family's household income is still diminished by the elimination of these wages.[35] In addition, since the prisoner's lifetime earning potential is lowered, women (and nien and children) in that family will suffer as well. Also, the savings of the offender's family are depleted as women must depend on these resources for survival needs when their partner is in prison. This reduces the ability of parents to pass on whatever minimal wealth they might have to their children (and grandchildren), thereby draining resources of the women at home as well as extended family members.

Social services, welfare, health, and education are resources that are very much needed in marginalized and poor, working class, and middle class communities of color.[36] However, with the transfer of funds from poor inner city Black and Latino/a communities to poor white communities in rural areas where prisons are located and the census counts prisoners residing, cutbacks in each of these areas makes it increasingly more difficult to make ends meet for those women who remain in the community and who have to "pick up the pieces" as they are left behind by family and friends who end up in prison, usually far away from their home communities.[37] In a Democratic administration under President Bill Clinton, tremendous erosion of welfare benefits occurred. Add to this the greater hardships imposed on poor and minority communities by President George W. Bush, there is even greater hardship in these areas as his conservative agenda and his "war on terrorism" creates a huge deficit requiring even more belt-tightening and hardship by Black and Latina (and poor white) women surviving in urban areas without their com-

patriots who are in prison. Finally, it is important to understand the stigma and hardships women face because of their family member's criminal conviction. The struggles the women experience are summed up in the title of a newspaper article written twenty years ago, "Guilt by Marriage: Many Convicts' Wives Can't Get Work, Housing, or Insurance." [38]

Impact #2: Loss of Economic Employment

In addition to the greater financial burdens, funding for the prison industrial complex also diminishes job opportunities for women who remain in the community. In "Three Strikes and It's ***Women*** Who Are Out," Mona Danner argues that the "three strikes laws" common across the country now lead to harsh consequences for women who are outside the prisonsystem itself.)' In particular, there is a loss of welfare supports for the poorest women in U.S. society (some of who end up in prison), a loss of much needed traditional "women's''jobs available to poor, middle class, and minority women, and a loss of family supports, both financial and emotional, as federal and state governments become less able to provide public assistance or public employment.

One ofthe ways that Black women were able to take a foothold in the post–civil rights and post women's liberation movement economy was through the *expansion* of new jobs, many of which were traditional female types of work and in public sector employment: in social services, welfare, education, and health care; this was true for professional and non-professional work alike.[40] However, argues Danner, just as women are more likely to be recipients of social services, women likewise are more likely to be employed in social service agencies as social workers, case workers, counselors, and support staff. But, with the expansion of jobs in criminal justice came serious cutbacks in social services, heavily a location for Black female employment.[41] Today, in 2003, the shift from the war on drugs and crime to the war on terrorism will lead to even more service sector job losses.[42] In addition, Higginbotham shows that Black women who have made it into the professions are typically employed in female jobs (e.g., nursing, social work, and education) and in heavily Black communities. When Black women are able to make it into the male professions, they are segregated into offices and areas of the community that are heavily Black and significantly poorer than in white firms and communities. All too often this kind of segregation of labor leads to segregation of resources by these firms as well. So cut backs in these areas are particularly damning for poor Black comniunities."

In addition, workfare has been another way in which women in poor Black communities have been required to obtain any kind of welfare payments, which in itself has been severely cut back by the 1996 Personal Responsibility and Work Opportunity and Reconciliation Act. One of the major problems with workfare is that it does not allow most women in it to get an education and training for good, well-paying, long-term jobs with decent benefits. In New York City, it has been reported that women receiving workfare have often done the same job as a regular city employee—only to receive much less pay, no benefits, and to lose the job at the point at which the person might be taken on as a pennnnent employee.

Impact #3: Who Will Carefor AN the Children Left Behind by Prisoners?

As we saw earlier, 7 percent of all Black children have a parent in prison. It is estimated that of the 1.5 million children with a mother or father in prison, 767,200 are Black, 301,600 are Latino/a, and 384,500 are white. Mothers in prison leave 150,000 minor children behind; fathers leave around 1.5 million minor children behind to be cared for by wives, grandmothers, sisters, aunts, and girlfriends. When men go to prison, 9 out of 10 of their children are cared for by the children's own mothers. But when women go to prison, only a little over one-quarter of the fathers (28 percent) care for their children. Instead, the

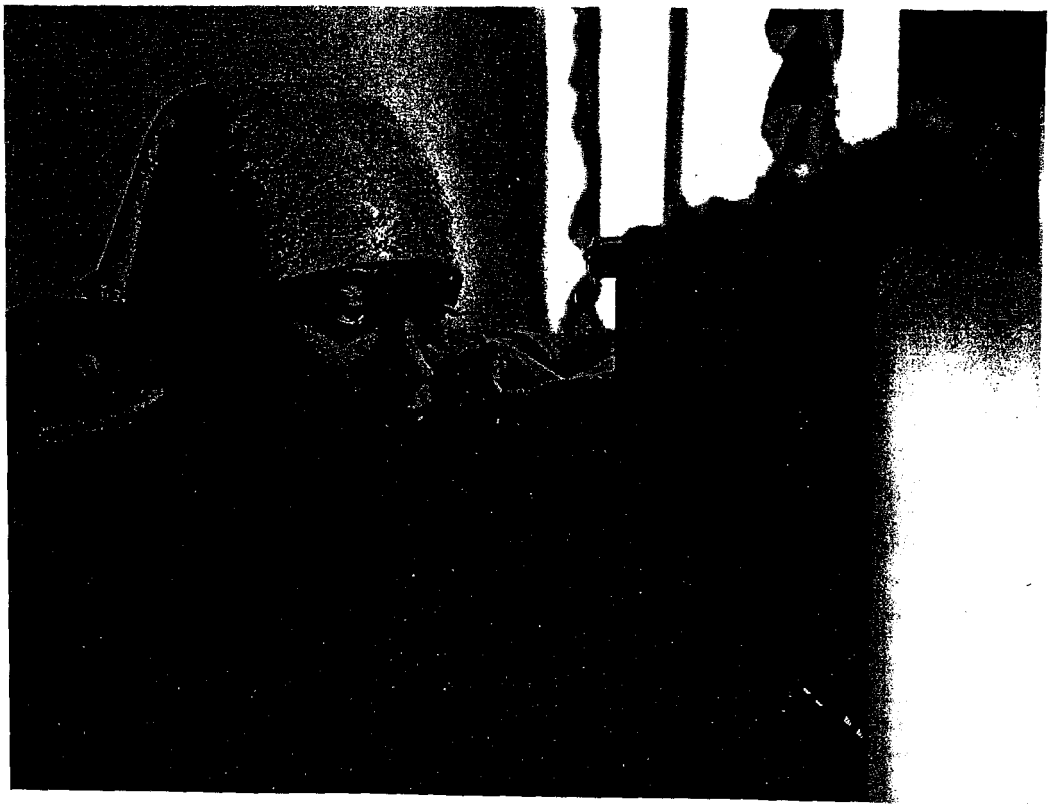
mother of the prisoner—i.e., the children's maternal grandmother—is the person most likely to take on responsibility for the care and upbringing of those children; secondarily are other female kin. Ten percent of the children end up in foster care or agencies." Grandmothers—womenwho have already done their childrearing—faceadditional hardships, which were poignantly described recently by the *New York Times*.[45] The financial, emotional, and physical strains are tremendous for these women and their families.

Impact #4: WomenAre Left Behind in Less Stable Communities

When we look at the impact of the prison industrial complex on women in communities we need to look at the communities themselves and how they are initially disadvantaged in terms of society's economic, political, and educational and occupational systems. As well, we must see how these communities are the severely disadvantaged *contexts* within which large groups of Black and poor women struggle to survive.

Reallocation of Community Funds: Because of the politics of the prison industrial complex, money that is usually designated for the residents of poorer minority communities is taken away from these communities and placed in "prison" communities due to public laws regarding definitions of "residence." The U.S. Bureau of the Census redefines prisoners from poor urban minority communities as living elsewhere if they are in prison (which is usually far from their homes). The law transfers funds from the prisoner's home community to the community in which the prison resides—thereby taking much needed funds from home communities while the prisoner is locked away and unable to

Daydream. *Photo © Helen Stummer*



contribute to his family.[46] This has serious consequences for the community. Women remaining in these racialized poor cominunities need more, not fewer, services to be available while their men and women are in prison, and, for all practical purposes, prisoners return to the communities they left upon incarceration. But the money to support services that the ex-offenders and their communities will need for a prisoner's reentry will not be available since it will already have been given to prison communities! This has huge implications for the basic material resources needed in communities since so many prisoners are released each year and in such a manner that their release is concentrated once again in poor minority communities. At current count the U.S. system of incarceration releases about 600,000 prisoners per year across the country.

Voting Rights: As communities suffering severe shortages in every material aspect of life, these comniunities are beset by further losses of economic and political influence because of the large numbers of their residents who are involved in the criminal justice system. Most felons cannot vote; in thirteen states some or all ex-felons cannot vote—and even when they can, both the individuals and the communities are not well informed about these possibilities?' For example, **5** percent of all Black women are under the control of the criminal justice system. In addition, 10 percent of young Black men in their twenties live behind bars; another 20 percent are under the control of the criminal justice system. Thus, between one-fourth and one-third in some states cannot vote; and in some cities —like Baltimore —56 percent of young Black men are disenfranchised.[48]

While it is clear that individuals in prison lose their right to vote, what is often forgotten is that this affects whole communities not just the individuals themselves. Since people in prison come from a small number of specific communities, primarily in poor minority urban areas, the loss of political rights in a community is highly concentrated. In New York state, for example, two-thirds of all women and men prisoners come from seven communities in New York City.[49] As more women and men from these practically all Black and Latino/a communities are placed upstate, far from their homes, the basic political and related rights and opportunities of citizens in these communities are seriously compromised. The basic rights of an American citizen are denied to most people with a record. While there are efforts underway to re-secure a prisoner's right to vote, the reality is that about 4 million with felony convictions still do not have the right to vote because of their prison records.[50]

The Consequences **of** Over-Incarceration **for** Communities: The criminal justice system operates on the belief that when someone is incarcerated, punishment for that crime has occurred and further crimes have been prevented because a person is no longer in the community. However, according to Todd Clear, there is a "tipping point" after which the number of people in prison is too high so that crime is *furthered* rather than prevented by incarceration. In-short, in the very communities where women are struggling so hard to survive with the limited resources and overabundance of responsibilities, incarceration actually *harms* communities by increasing rather than decreasing crime.

Impacts on Women Coming Out of Prison

The communities that are left behind while men and women are incarcerated are the very same communities to which Black women and men must come home. In this section I focus on some of the significant problems plaguing Black women as they re-enter their home communities. Some of these problems are the very same ones that all women and men experience upon their return from prison as well, but some are gendered and raced

and unique to Black women prisoners as they reenter into their marginalized communities. Since one of the greatest impacts on Black women's reentry to home communities is due to the War on Drugs, I will limit my comments here mainly to these issues.

Special Problems of the War on Drugs as a War Against Black Women as They Reintegrate Into Their Communities

There are 13 million former and current prisoners living in the United States today. Approximately 600,000 prisoners are released from jail and prison every year back into their communities, and a majority come from impoverished minority inner-city communities. When prisoners are released, they often have serious problems with substance abuse, mental health, and low education skills. They need employment and housing which is hard to obtain given their personal problems. The communities to which they return are likewise in very poor condition.[51] As Beth Richie notes, most women returning from prison return to the very same conditions they left when they entered prison: disenfranchised communities with limited economic, social, and political resources. Affordable housing, jobs; and health care are limited at best. Seriously limited community resources are further limited by the women's criminal records.

Zmpact #1: Forbidden to Live in Publicly Funded Housing

Amidst this context, the war on drugs has placed almost impossible burdens on the backs of Black and Latina women who are leaving prison with drug convictions. First, the law grants public housing agencies the right to deny such housing to drug ex-offenders—whether in their own apartment or in someone else's until they get on their feet. However, since so many of the women in prison were either homeless (up to 40 percent in some studies; see Richie, 2001) or inadequately housed before they went to prison, one of their very few options is to find or return to publicly subsidized housing. This is no longer possible. Nor can they stay with their mothers, grandmothers, partners, friends, relatives, or children who live in public housing — becauseif they try to do so, the entire family can be evicted, not just the "ex-offender."[52]

Impact #2: Forbidden to Receive Cash Assistance and Food Stamps

Second, the 1996 Welfare Reform Act (i.e., the Personal Responsibility and Work Opportunity and Reconciliation Act) put a lifetime ban on cash assistance and food stamps for anyone convicted of a drug felony. Although states can opt out of this aspect of the Act, forty-two states enforce the ban either in full (twenty-two states) or in part (twenty states); only eight states have completely opted out of the ban.[53] Between 1996 and 1999, The Sentencing Project estimates that 92,000 women were affected by the ban in the 23 states for which they were able to get data.[54] As they conclude, this ban has a disproportionate impact on Black mothers because of the racially biased drug policies and enforcement of drug laws which account for the rapid growth of African American women and Latinas under criminal justice supervision and as a result of race and gender-based socioeconomic inequalities which make Black and Latina mothers highly susceptible to poverty and, thus, disproportionately represented in the welfare system.

Impact #3: Forbidden Federal Financial Assistance for Higher Education

One of the major reasons for the difficult position of poor minority women is their lack of an adequate education. And we know that the best preventative for ending up in or return-

ing to prison is increasing levels of education.[55] In the conservative environment of the mid–late 1990s, prisons began cutting back on education programs generally, and for prisoners specifically. Federal Pell grants, which allowed prisoners to get a college education, were summarily eliminated.[56] Conservatives pushed the idea that prisoners should not get a "free" education when poor and working class people who obeyed the law were not able to get a higher education. Thus, the heavily Black and Latino/a prison population was punished. In the late 1990s, the law was amended such that anyone (whether in prison or not) who had been convicted of a drug offense could not get government funding for education. The law has been interpreted to read that anyone who failed to answer the question about being a drug offender or not would not get federal financial assistance—even if the person never had a drug conviction.

In New York State, for example, two-thirds of all women and men prisoners come from seven communities in New York City

Impact #4: Prohibitions Against Certain Employment

Many jobs for which poor Black women with limited education might have the greatest chance of obtaining are prohibited by law for anyone who has a felony—whether for drugs, shoplifting, or petty fraud. In New York State these include such jobs as home health aide, nursing attendants, and nursery school assistants. In Pennsylvania, this includes working in nursing homes or doing home health care for the elderly, two jobs that are heavily Black and female.[57] This is a crushing blow for many young women returning to their communities from prison. Black women who have faced racial segregation in the past—in terms of education, also face it in the present in terms of which jobs they will be shunned from based on their race.[58]

Impact # 5: Ineligibility for Victim Services

Being an ex-offender in a Black or Latino/a community has many disadvantages for women. One of the last examples I will give revolves around the fact that some victim services agencies refuse treatment and resources to women with a prison record. According to Beth Richie, some victims services programs do background checks when women call for help because the terms of their funding do not permit them to provide services to ex-prisoners. This is true for both health care and mental health care programs. This is particularly horrendous for Black women since they have some of the highest rates of victimization in this country — whether in terms of rape, domestic violence, murder, or harassment.[59] According to multicultural domestic violence scholars, it is not "Black culture'' per se that leads to such high rates of violence against Black women, but rather the intensity of poverty, segregation, and isolation, within poor Black communities.[60]

Impact # 6: Cumulative Effects of the Laws and Complexity of Problems

The difficulties and challenges of re-integrating into home communities for Black and Latina women returning from prison is eloquently discussed by women in Beth Richie's recent ethnographic study of forty-two women arrested and released at least three times

to severely disenfranchised communities. These women describe the multiple, competing demands on them as they simultaneously try to regain custody of children, juggle childcare, look for a place to live and to work, and try to get into a substance abuse program which is a condition of their release (on probation or parole). To quote Richie, "The woman will need an apartment to regain custody of her children, she will need a job to get an apartment, she will need to get treatment for her addiction to be able to work, and initial contact with her children may only be possible during business hours if they are in custody of the state. The demands multiply and compound each other, and services are typically offered by agencies in different locations. Competing needs without any social support to meet them may seriously limit a woman's chances for success in the challenging process of reintegration."

All of this is happening in communities that are in great need for economic, political, and social change. Thus, as Richie continues, the move of Black women back to their communities from prison is impeded by institutional constraints: a bleak future for public housing, increased limitations on opportunities for public assistance, the curtailment of legal assistance, and changes in Medicaid and managed health care result in limited access to health and mental health services. Women with criminal records who are facing the competing demands previously described are arguably in one of the worst positions to secure the services they need, both because their communities' resources are so seriously limited and because their criminal record further inhibits their access to services."[61]

Impact # 7: The Negative Consequences for the Children in Marginalized Communities

One of the greatest tragedies of the impact of the prison industrial complex on Black women is the consequence for their children. Research tells us that *50* percent of young people in juvenile correctional facilities today have a parent or close relative in prison.[62] Moreover, about 40 percent of adults in prison also have a parent or close relative who was or is in prison.[63] With over 1.5 million children having mothers or fathers in prison today, the figure swells to 10 million children who have had a parent in prison.[64] And with seven times as many Black children as white children having a parent incarcerated, this burden falls most harshly on Black children in the United States.

50 percent of young people in juvenile correctional facilities today have a parent or close relative in prison. Moreover, 40 percent of adults in prison also have a parent or close relative who was or is in prison

Moreover, Katherine Luke enumerates the burdens that children of incarcerated mothers and fathers bear. They are "at increased risk for a variety of personally and socially destructive outcomes. Behavioral and institutional problems, school problems, fear, anxiety, anger, sadness and guilt are within the normal range of experiences for children of incarcerated parents, as are abuse of chemicals at a young age, early sexual activity, teen pregnancy, truancy and juvenile delinquency."

Cynics have argued that the children are simply following in their imprisoned parents' footsteps and there is nothing we can do about this. However, a more sociological analysis asks us to look at the underlying conditions of the communities these young people

live in, devastated by the limited opportunities and resources as well as racism and class bias structured into their daily lives. Again, it is important to remember that when we talk about poverty, we are not necessarily talking about the same thing for poor whites and poor Blacks. Only 25 percent of poor whites live in poor white neighborhoods; rather poor whites are much more likely to live in neighborhoods with working class and middle class families, role models, and resources. In contrast, 75 percent of poor Blacks live in poor Black communities, devastated by the lack of resources, opportunities, and structures to keep them safe from a lot of the disadvantaged living circumstances and crime that occurs.[65] This is not a legacy we should be leaving our children at the beginning of the twenty-first century,

Where Do We Go From Here?

Since the second Great Experiment in prison history began in 1970, economic restructuring and globalization have been accompanied by a decline in many welfare state resources. This has hit poor minority communities hardest in a multitude of ways. There is a clear and present need for massive redistribution of wealth from the rich to the poor, from the prison industrial complex and the War on Drugs to social spending in health, education, jobs, and welfare for poor and racialized communities on the margins. This is even more true today under the administration of President George W. Bush where the federal surplus has been torpedoed into a multi-trillion dollar budget deficit—all the while benefiting the wealthy few more and more as those at the margins suffer greater hardships and more punishment.

We know what we need to do to prevent the massive buildup of poor Black, Latina, and white women in prison. First, we need both prevention in the community and programs in the prisons that provide comprehensive resources and programs for culturally competent anti-racist and feminist drug treatment, education, job training, health care, domestic violence and abuse programs, as well as transitional services back into the community for women (and men) leaving prison. Second, in the communities, we need decent affordable housing, shelters for battered and raped women, safe affordable childcare, safe neighborhoods, and infrastructures that can transform poor neighborhoods. Third, we need to eliminate mandatory minimums, tlireestrikes, truth-in-sentencing, and other discriminatory laws; decriminalize drugs and prostitution, and provide alternative sentencing; and put an end to all prohibitions on people after they have served their time including welfare, housing, jobs, voting, child custody, food stamps. Ultimately, we need to do away with prisons themselves. Fourth, we need training, resources, and hope—both inside and outside prison. None of this will "just happen." It will take tremendous political will, social action, and social movements. It requires coalition building between communities of color, reformist women's organizations, African American and other faith communities, and progressive organizations. We can, we must, be prepared to take action ROW.

Notes

1. **Marc Mauer,** *Race to Incarcerate* (New York New Press/W.W. Norton, 1999) and "The Causes and Consequences of Prison Growth in the United States," *Punishment & Society* (2001): 9–20.

2. **David Garland, "Introduction: The Meaning of Mass Imprisonment,"** *Punishment & Society* **(2001):5–8.** For **statistics, see U.S. Department of Justice, Bureau of Justice Statistics,** *Prison and Jail Inmates at Midyear 2002,* **by Paige Harrison and Jennifer Knrberg, NCJ 198877 (Washington, D.C.: GPO. 2003).**

3. Native Americans are also disproportionately imprisoned, but their overall numbers are much smaller. Poor whites suffer also—but not to the same extent as Blacks, Latinos, and Native Americans. While we know the most about Black disenfranchisement and punishment through the legal system, it is becoming increasingly clear that it is not just Black women, but Black and Latina women who are heavily incarcerated, especially because of the War on **Drugs.** Where possible, evidence relating to Latinas will also be included.

4. See Natalie J. Sokoloff, ***Mass Imprisonment and Its Impact on Women of Color in the U.S.*** (unpublished manuscript in possession of the author, 2003), and Julia Sudbury, "Women of Color, Globalization, and the Politics of Incarceration," in Barbara Raffel Price and Natalie J. Sokoloff, eds., ***The Criminal Justice System and Women: Offenders, Prisoners. Victims, Workers,*** 3rd ed. (New **York** McGraw-Hill, 2003). 13.

5. Steven Donziger, ed., ***The Real War on Crime: The Report of the National Criminal Justice Commission*** (New York HarperCollins, 1996).

6. Sudbury, 13.

7. Elliott Currie, ***Crime and Punishment in America*** (New York: Henry Holt, 1998).

8. U.S. Department of Justice, Bureau of Justice Statistics, ***Prison and Jail Inmates at Midyear 2001*** by Allen J. Beck et al., NCJ 191702 (Washington, D.C.: GPO, 2002).

9. U.S. Department of Justice, Bureau of Justice Statistics, *Women Offenders* by Lawrence Greenfeld and Tracy Snell, NCJ 175688 (Washington, D.C.: GPO, 1999).

10. US. Department of Justice, Bureau of Justice Statistics, ***Prisoners in 2001*** by Paige Harrison and Allen J. Beck. NCJ 195189 (Washington, D.C.: GPO, 2002).

11. U.S. Department of Justice, Bureau **of** Justice Statistics, ***Lifetime Likelihood of Going to State*** *or* ***Federal Prison*** by T. B. Bonzcar and Allen J. Beck, NCJ 1600092 (Washington, D.C.: **GPO.** 1997) and **"U.S.:** Incarceration Rates Reveal Striking Racial Disparities," ***Human Rights*** News. February 27 2002, http://www.hrw.org/press/2002/02/race0227.htm.

12. Darrell Steffensmeier and Jennifer Schwartz, "Trends in Female Crime: **Is** Crime Still a Man's World?" in Price and Sokoloff, eds.

13. In contrast, the rate for Latinas was 2.2 percent and for white women, 1 percent. Marc Mauer and Tracy Huling, ***Young Black Americans and the Criminal Justice System: Five Years Later*** (Washington, D.C.: The Sentencing Project, 1995).

14. Women of Color Policy Network, "Women of Color in New York City: The Challenges of the New Global Economy." ***Roundtable of Institutions of People of Color:*** Robert F. Wagner School of Public Service at New York University, (March, 2001), **http://www.nyu.edu/wagner/wocpn/publications/publication.pdf.**

15. Marc Mauer et al., ***Gender and Justice: Women, Drugs, and Sentencing Policy.*** (Washington, D.C.: Sentencing Project, 1999).

16. Stephanie Bush-Baskette, "War on **Drugs:** A War Against Black Women," in Susan L. Miller, ed., ***Crime Control and Women: Feminist Implications of Criminal Justice Policy*** (Thousand Oaks, Ca.: Sage, 1998), 113–129.

17. Natalie J. Sokoloff, "Violent Female Offenders in New York City: Myths and Facts," in A. Karmen, ed., ***Crime and Justice in New York City, Vol I*** (Cincinnati: Thompson, 2001), 132–146.

18. Steffensmeier and Schwartz, 13.

19. In New **York** State, during the same period, violent female crime declined'from 49 percent to 18 percent. Lisa Maher, ***Sexed Work: Gender: Race and Resistance in a Brooklyn Drug Market*** (Oxford: Oxford University Press, 1997).

20. According to Women of Color Policy Network, for example, 59 percent of all women with AIDS in New York City in 1999 were Black (compared to 32 percent who were Latina and **only** 9 percent who were white). See Nicholas Freudenberg, "Adverse Effects of **U.S.** Jail and Prison Policies on the Health **and** Well-Being of Women of Color." ***American Journal of Public Health,*** **92** (2002): 1895–1897 and Beth Richie, ***Compelled to Crime: The Gender Entrapment of Battered Black Women*** (New York Routledge. 1996).

21. Neil Websdale, ***Understanding Domestic Homicide.*** (Boston: Northeastern University, 1997), Meda Chesney-Lind, "The Forgotten Offender: Women in Prison: From Partial Justice to Vengeful Equity," ***Corrections Today*** (1998): 66–73. ***See*** **also** Nina Siegal, "Stopping Abuse in Prison," ***Progressive*** 63(2002): 31–33.

22. Amnesty International, Not ***Part of My Sentence: Violations of Human Rights of Women in Custody***, 1999, **http:Iwww.amnestyusa.org/rightsforallwomenlreport.** And "Sexual Abuse of Women in **U.S.** State Prisons: A National Pattern of Misconduct and Impunity," ***Human Rights News,*** December 7 1996, http://hnu.otgl press/1996/12/usprisons.htm.

23. See Maher.

24. See Mauer and Huling, ***Young Black Americans,*** and Mauer et al., ***Gender and Justice.*** Drugs seem to play a larger role in the incarceration ofwomen than of men, particularly for Black and Latina women. Kristen Flurkey, "Abused Behind Bars: U.S. Women Inmates Suffer Human Rights Violation," ***Peace & Freedom*** (1999): **12-14,** reports that in a California study, over a third (35.9 percent) of women serving time for drug offenses do **so** for drug "possession." In addition Barbara Owen and Barbara Bloom, ***Profiling the Needs of California's Female Prisoners—A Needs Assessment*** (Washington, D.C.: National Institute of Corrections,

1995) reported that in New York, 61 percent of women in state prisons in 1996 were convicted of a drug crime, one-fifth (444 women) having been convicted for possession of an illegal substance. In California, a 1993 study of women prisoners found the most common crime (16 percent) for which women had been convicted was possession of illegal drugs. On the other hand, Marc Mauer (in a personal communication with the author, 2003) maintains that about one-third of drug cases are "possession with intent to distribute" and that of the remainder, many have been plea-bargained down from an original trafficking charge. Even to the extent this is the case, it is unlikely that a prosecutor would agree to a plea bargain for a woman who was a serious trafficker.

25. While 840,000 federal and state prisoners needed drug treatment in 1996, less than 150,000 received it. Joseph Califano, ***Behind Bars: Substance Abuse and America's Prison Population*** (New York: Center on Addiction and Substance Abuse, Columbia University. 1998). See also Barbara Owen, ***In the Mix: Struggle and Survival in a Women'sPrison*** (Albany: ***SUNY*** Press, 1998).

26. C. Peter Rydell and Susan Everingham, ***Controlling Cocaine: Supply Versus Demand Programs***, MR-331-ONDCP/A/DPR (Santa Monica, Ca.: RAND, 1994). http://www.rand.org/publications/MR/MR331/.

27. Only 17 percent of men and women ex-offenders in Maryland had gotten vocational/education programs while in prison, 50 percent had work assignments like sanitation and food service, one-third were idle, and only 3 percent had some form of re-entry programs to prepare them to return to their communities. Nancy La Vigne et. al., ***A Portrait of Prisoner Reentry in Maryland*** (Washington, D.C.: The Urban Institute, 2003), http://www.urban.org/url.cfm?ID=410655.

28. Ruben Rosario. "Corrections: Budget Cuts Hit Women's Programs," ***Pioneer Press*** 25 February 2003.

29. U.S. Department of Justice, Bureau of Justice Statistics, ***Incarcerated Parents and Their Children*** by Christopher Mumola, NCJ 182335 (Washington, D.C.: GPO, 2000).

30. Correctional 'Association of New York, Women in Prison Project, ***The Effects of Imprisonment of Families: Fact Sheet.*** March 2002. http://www.correctionalassociation.org/images/Children-of-Incarcerated-Parents.pdf.

31. See Mumola.

32. Beth Richie, "Challenges Incarcerated Women Face as They Return to Their Communities: Findings from Life History Interviews," ***Crime & Delinquency,*** 2001, 47(3): 368–389.

33. Donald Braman, "Families of Prisoners:' in Marc Mauer and Meda Chesney-Lind, eds.. ***Invisible Punishment: The Collateral Consequences of Mass Imprisonment*** (New York: New Press, 2002). 117–135, and Edwin C. Hostetter and Dorothea T. Jinnah, "Research Summary: Families of Adult Prisoners," ***Family and Corrections Network's Reading Room, 2003,*** www.fcnetwork.org/reading/researc.html. For a description and analysis of the importance in poor Black communities of Black men see Carol Stack, ***All Our Kin: Strategies for Survival in a Black Community*** (New York: Harper Row, 1974).

34. Eric Schlosser, "The Prison-Industrial Complex," ***Atlantic Monthly*** (December 1998): 5 1–77.

35. Donald Braman, ***Research in Brief: Workshop on Families and Incarceration*** (Chicago: Annie E. Casey Foundation and Joint Center for Poverty Research, 2003).

36. Elizabeth Higginbotham and Lynn Weber Cannon, ***Rethinking Mobility: Towards a Race ond Gender Inclusive Theory*** (Memphis: Center for Research on Women. University of Memphis. 1998). See also Todd Clear, "Backfire: When Incarceration Increases Crime," ***Journal of Oklahoma Criminal Justice Research Consortium***, 3 (1996): 7–18.

37. Dontiger, ***The Real War on Crime;*** Mona Danner, "Three Strikes and It's ***Women*** Who Are Out: The Hidden Consequences for Women of Criminal Justice Policy Reforms," in Miller, ed., 1–14; "New York State of Mind?: Higher Education versus Prison Funding in the Empire State, 1988–1998," (San Francisco: Center on Juvenile and Criminal Justice, 1998), http://www.cjcj.org/pubs/ny/nysom.html; Laura Fishman, ***Women at the Wall: A Study of Prisoners' Wives Doing Time on the Outside*** (Albany: SUNY Press, 1990); Lori Girschick, ***Wives of Prisoners Speak Out*** (Westport, Conn.: Praeger, 1996).

38. Keven Helliker, "Guilt by Marriage: Many Convicts' Wives Can't Get Work, Housing or Insurance," ***Wall Street Journal,*** 1983: 14.

39. Danner, 1–14.

40. See Higginbotham and Cannon, "Rethinking Mobility;" Natalie J. Sokoloff, ***'Between Money and Love: The Dialectics of Women's Home and Market Work*** (New York: Praeger, 1980), and ***Black Women and White Women in /he Professions: Occupational Segregation by Race and Gender*** (New York, London: Routledge, 1992).

41. Elizabeth Higginbotham, "Employment for Professional Black Women in the Twentieth Century." in Christine Bose and Glenna Spitze, eds., ***Ingredients for Women's Employment Policy***, (Albany: SUNY Press. 1987). 73–92.

42. Daniel Altman, "308.000 Jobs Lost in February, the Most Since Post–9/11 Period," ***New York Times***, March 8 2003. According to Altman, since November 2002, 140,000 manufacturing jobs vanished, but in February 2003 alone, 204,000 jobs were lost in the service sector.

43. See Higginbotham. "Employment."

44. See Mumola.

45. Creasie Finney-Hairston, "Prisoners and Families: Parenting Issues During Incarceration," paper presented for the National Policy Conference, From Prison to Home: The Effect of Incarceration and Reentry on Children, Families, and Communities, U.S. Department of Health and Human Services (January 30–31,2002). http://www.urban.o1gluploadedpdf/410628_PrisonersandFamilies.pdf.

46. Sometimes, women are relieved when men who are in prison are not at home to harass, threaten, or hurt them. Likewise, many men do not have good economic prospects and don't contribute to the support of their family as they should.

47. There are struggles going on in many states right now over the rights of enfranchisement for prisoners, people on probation and parole, and ex-offenders. For a review of this literature, see Marc Mauer's work at The Sentencing Project, available at: http://www.sentencingpmject.org.

48. For a summary of studies demonstrating the high rates of incarceration of young African American men, see Donziger, *The Real War on Crime*. 104–106.

49. Peter Wagner, *The Prison Index: Taking the Pulse of the Crime Control Industry* (Springfield, Mass. and Portland, Ore.: Prison Policy Initiative and Western Prison Project, 2003). For discussion of New York data, see Sokoloff, 2001. Chicago data are lower, yet similarly concentrated (see "Number of Prisoners Released by Illinois More than Doubles," *Ascribe Newswire,* April I7 2003).

50. "Ex-Cons Say They Want to Vote" *Fox News*, October 1 2002, http://www.foxnews.com/storyl 0,2933,64490,00.html.

51. See La Vigne.

52. Evelyn Nieves, "Drug Ruling Worries Some in Public Housing," *New York Times,* March 28 2002.

53. They are Connecticut, Michigan. New Hampshire, New York, Ohio, Oklahoma, Oregon, and Vermont and the District of Columbia.

54. Nationally, 48 percent of the women affected are African American or Latina, but this varies significantly by state. In five states, more than half of the women affected were African American: Alabama (61 percent), Delaware (65 percent). Illinois (Cook County) (86 percent), Mississippi (54 percent), and Virginia (63 percent). See Patricia Allard, *Life Sentences: Denying Welfare Benefits to Women Convicted of Drug Offenses* (Washington, D.C.: The Sentencing Project, 2002), http://www.sentencingproject.org/pdfs/9088.pdf and *Crack Cocaine Sentencing Policy: Unjustified and Unreasonable* (Washington, D.C.: The Sentencing Project. 2000), http://www.sentencingproject.org/brief/pub1003.htm.

55. A 2001 study of more than three thousand men and women released from prisons in Maryland, Minnesota, and Ohio showed prison education program graduates earned higher wages and committed fewer new offenses three years after release. *See* Stephen Steurer et al., *The Three State Recidivism Study* (Correctional Education Association of the U.S. Department of Education, 2001).

56. Michelle Fine et al., "Changing Minds: Going to College at a Maximum Security Prison," *Women. Girls & Criminal Justice*, 4 (2): 17, 18: 25–31.

57. Katherine Luke, "Mitigating the Ill Effects of Maternal Incarceration on Women in Prison and Their Children." *Child Welfare* 6. no. 81 (2002): 929–948.

58. Lori Reid, "Occupational Segregation, Human Capital, and Motherhood: Black Women's Higher Exit Rates from Full-Time Employment." *Gender & Society*, 16 (5): 728–747.

59. Robert Hampton et al., "Violence in Communities of Color," in Ricardo Carillo and Jerry Tello, eds., *Family Violence and Men of Color: Healing the Wounded Male Spirit* (New York: Springer Verlag, 1998) and Callie Rennison and Michael Planty, "Non-Lethal Intimate Partner Violence: Examining Race, Gender and Income Patterns," *Violence and Victims* 18, no. 4 (2003).

60. Hampton et al., 1-30; Carolynn West, "The 'Political Gag Order' Has Been Lifted: Violence in Ethnically Diverse Families." and Natalie J. Sokoloff and Ida Dupont, "Domestic Violence: Examining the Intersection of Race, Class, and Gender." in Natalie J. Sokoloff, ed., *Domestic Violence: At the Intersections of Race. Class. and Gender in /he United States.* (New York: Rutgers University, 2005).

61. Richie, 38, 381–382.

62. Fos Butterfield, "Freed from Prison, But Still Paying a Penalty" *New York Times* December 29,2002.

63. The U.S. Department of Justice (1 992) jail study found that 44 percent of women and 34.5 percent of men reported a close family member had served time in jail or prison. Almost 75 percent of women in California prisons had family members who had been arrested and 63 percent reported that a close relative had been incarcerated. (USDOJ) *U.S.* Department of Justice. 1992). Barbara Bloom el al., *Women in California Prisons: Hidden Victims of the War on Drugs* (San Francisco: Center on Juvenile and Criminal Justice. 1994).

64. Denise Johnston, "Effects of Parental Incarceration." in K. Gabel and D. Johnston, eds., *Children of Incarcerated Parents* (New York: Lexington, 1995). 59-88.

65. David Rusk. *Baltimore Unbound: Creating a Greater Baltimore Region for the 21st Century: A Strategy Report* (Baltimore: Johns Hopkins University, 1995).

Souls

Imagining Justice

Felon Voting Rights and the Disenfranchisement of African Americans

Christopher Uggen, Jeff Manza, and Angela Behrans

The centrality of race for American political development is by now well understood. Social scientists have traced the interaction between race and the construction of federal political institutions, the class/race (or gender/race) nexus in public policymaking, and the impact of racial attitudes and racism on the political beliefs and policy preferences of citizens and policymakers alike. In recent years, research and theories about the American "racial state" have delved into many of the crevices of U.S. history that had previously ignored, veiled, or underplayed racial factors.'

Of particular importance is the development of new investigations of social and political practices with partially, or completely, hidden racial dynamics. Felon disenfranchisement laws, which restrict the voting rights of those convicted of criminal offenses, provide a good example. These laws are facially neutral with regard to race, applying equally to all convicted of felonies. Nevertheless, given both the historical efforts to deny the franchise to African Americans and the dramatic overrepresentation of persons of color within the criminal justice system, the racial dimension of felon disenfranchisement seems obvious to many observers. For example, when asked why some states might mandate felon disenfranchisement, a young African American probationer we interviewed in Minnesota responded succinctly: "To be honest, I think they just want less blacks to vote."[2] Some scholars have thus begun to examine the role of racial factors in the origins and contemporary impact of felon disenfranchisement.[3]

In contrast, proponents of felon disenfranchisement maintain that these laws are race-neutral, applying equally to all criminal offenders, and that states have the right to regu-

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